



C.R.P.Nos.2306 and 2307 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON : 19.09.2023

DELIVERED ON: 09.10.2023

CORAM :

The Hon'ble Mr.JUSTICE V.LAKSHMINARAYANAN

C.R.P.Nos.2306 and 2307 of 2010

1.K.J.A.S.Ravi

2.K.J.A.A.Vasanth

3.K.J.A.M.Rajakumar

... Petitioners in both CRPs.

VS

1. Begum Jan

2.Ameer Basha

3.Iqbal Basha

4.Beema Begum

5.Khader Basha

... Respondents in both CRPs.

Civil Revision Petitions filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act 18 of 1960 as amended by Act 23 of 1973 against the order and decree dated 04.01.2010 in R.C.A.Nos.890 and 914 of 2004 passed by the learned VIII Small Causes Judge cum Rent Control Appellate Authority, Chennai, modifying the order and decree dated



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14.06.2004 made in RCOP Nos.1429 of 1998 passed by the learned XI Small Causes Judge cum Rent Controller, Chennai.

For Petitioners :Mr.R.Swaminathan
for Mr.S.Sathish Rajan
For Respondents :Mr.B.K.Srinivasan

COMMON ORDER

This is a fair rent petition filed by the landlord. The landlord claimed that the respondents are joint tenants of a shop portion on a monthly rent of Rs.600/-. The rent being low and unfair and the property being situated in a busy area, they want fixation of fair rent. According to them, the market value of the property on the date of filing of the petition is Rs.35,00,000/- and it is Type I, Class I building. They would plead that the age of the building is 25 years and they would seek fair rent of Rs.6,767/- per month.

2. The respondents pleaded that they are entitled to the benefits of City Tenants Protection Act and that the landlord is not the owner of the superstructure. They would further state that the landlord had agreed to sell the property to them in March of 1996 and had executed a sale agreement. They



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would claim that the rent control petition is not maintainable and it has to be dismissed.

3. Before the trial Court, the landlord examined two witnesses and marked Exs.P.1 to P.5. The respondents examined two witnesses and marked Exs.R.1 to R.7. One document was marked through Court as Ex.C.1. On the basis of the evidence let in by the parties, the Rent Controller came to a conclusion that the fair rent of the premises will be Rs.5,060/-.

4. Two appeals have been filed before the Rent Control Appellate Authority. One by the landlord and the other by the tenants. The landlord's appeal was accepted and the rent was revised to Rs.5,858/-per month. This was in RCA No.914 of 2004 and the appeal in RCA No.890 of 2004, preferred by the tenants, was dismissed. Against the common judgment in RCA Nos.890 of 2004 and 914 of 2004, C.R.P.Nos.2306 and 2307 of 2010 have come before this Court.

5. Insofar as the claim that the tenants are entitled to the benefits of City Tenants Protection Act, the tenants have admitted that their mother came into



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possession of the property in the year 1990. Even when the time she came into the property, there was a superstructure existing over the property. Therefore, this plea that they are entitled to the benefits of City Tenants Protection Act does not arise.

6. In order, for a tenant, to be classified as a “city tenant” , he should have taken the land alone for rent. This is as per Section 1(3) of the Madras City Tenants Protection Act. Apart from that, the tenancy should have commenced before the commencement of City Tenants Protection Act. This is by virtue of Madras City Tenants Protection (Amendment Act of 1980) (Act II of 1980). When the tenants have admittedly come into possession of the property, after the commencement of the amendment Act, there is no question of the tenants being entitled to the benefit of the said legislation. Therefore, on two grounds, I will reject the claim of City Tenants Protection Act.

(1) the tenants have taken possession of the property after the commencement of Act 2 of 1980 and

(2) on the date on which they came into possession of the property in the year 1990, they had taken the superstructure as well as the land.



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7. Insofar as the agreement of sale that was projected as held by the Supreme Court in the case of *H.K.Sharma vs Ram Lal (2019) 4 SCC 153*, the agreement of sale does not put an end to the relationship of landlord and tenant. Therefore, I confirm the findings of the courts below that there exists a relationship of landlord and tenant and the landlord is entitled to invoke the provision of Section 4 of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960.

8. The trial court as well as the lower appellate court had come to the conclusion that the building is more than 30 years old. They have disagreed with the landlord that it is a Type I Class I building and have held to be Type-II building. The building has all the three basic amenities and the Court has given 5% for the three amenities. The only difference is on the value of the land.

9. In order to substantiate the value of the land, Ex.P.2 has been marked. P.W.2, the Engineer has stated that the land value is around Rs.60,00,000/-, whereas, P.W.1 stated the value is only around Rs.35,00,000/-. The tenants



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have grossly undervalued the value of the land situated in the city of Chennai and pleaded that it will be only Rs.10,00,000/-. The trial court as well as the lower appellate court took into consideration the locational advantage of the property. The property is situated in a prime locality i.e., near the arterial Mount Road and has fixed the value of the land at Rs.25,00,000/- in the year 1998. The lower appellate court has independently assessed the evidence and has come to the conclusion that the fair rent for the building would be Rs.5,858/-per month. I do not find any perversity or illegality in the order of the lower appellate Court and therefore, I am constrained to confirm the order passed by the learned VIII Small Causes Judge cum Rent Control Appellate Authority, Chennai in R.C.A.Nos.890 and 914 of 2004 dated 04.01.2010.

10. In the result, both the civil revision petitions are dismissed. No costs.

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1. The VIII Judge cum Rent Control Appellate Authority,
Small Causes Court, Chennai.

2. The XI Judge cum Rent Controller, Small Causes Court, Chennai.



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V.LAKSHMINARAYANAN,J.,

SR

Order in
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